

### REMARKS

The Office action dated August 30, 2007, and the references cited have been fully considered. Please enter the amendments and consider the remarks presented herein. Reconsideration and/or further prosecution of the application is respectfully requested. No new matter is added herein.

Note, Applicants include in this submission a clean listing of the claims for the record, without presenting any new amendments.

In regards to the Office action, all claims stand rejected under 35 USC § 103(a) as being unpatentable over the combination of Giacopelli et al., US Patent 4,893,304 and Heiman, US Patent 6,735,203. Applicants respectfully traverse the combination of the references themselves, and even if combinable, such a combination neither teaches nor suggests each and every limitation of any pending claim.

First, the statement of the § 103 rejection in the Office action fails to comply with the with MPEP § 706.02(j), Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (“KSR”), and KSR, as the Office action fails to present any reason for combining Heiman with Giacopelli et al. Rather, the Office action presents an argument for the combination of Clarke et al. with Giacopelli et al. on page 8. For at least these reasons, the Office fails to present a proper rejection of any claim.

Applicants further traverse the substance of the § 103 rejection as the modification to Giacopelli suggested by the Office will render Giacopelli unfit for its intended purpose of properly switching packets. Applicants respectfully submit that one skilled in the art would not modify the packet switch of Giacopelli et al. in a manner assumed by the Office. Applicants refer the Office to the packet switch design of Giacopelli et al., and in particular FIG. 1A. Each of the recirculation loops 30 are hardwired into a shift register 52, which are hardwired into an input of Batcher Network 12. Thus, there is no capability to deviate from which input of the

Batcher Network 12 a packet will be presented. There is no selection possible, let alone a random selection.

Moreover, it makes no sense for a selection capability within Giacopelli et al.'s packet switch. A Batcher Network is a sorting network - it sorts the order of packets into ascending or descending order, with these packets then being communicated in the sorted order to the Banyan Network. This sorting eliminates internal collisions in the Banyan Network. In other words, the use of the Batcher Network teaches away from a random ordering or selection - it sorts the items. Otherwise, there will be collisions in the Banyan Networks - as they are internally blocking - but these collisions are eliminated by placing them in ascending or descending order - i.e., by using the Batcher Network. This fundamental concept is discussed in Giacopelli et al., col. 1, lines 54-67.

For at least these reasons, the statement in the Office action that one would be motivated to modify Giacopelli et al. "to allow packets to be distributed more evenly across multiple paths to the same destination in a switching element" based on a random index demonstrates a failure of the Office to appreciate the operation of Giacopelli et al. as it operates by sorting the packets according to their destinations to avoid blocking conditions in the Banyan network. In other words, one does not want to induce to the randomization presented in the Office action, as it would cause blocking conditions/decreased performance within the Banyan network.

For at least these reasons, Applicants respectfully submit that the prior art of record, alone or in combination, neither teaches nor suggests all the limitations of any pending claim. Moreover, Applicants assume that the Office complied with its duties under MPEP § 706 and 37 CFR 1.104(c)(2) and cited the best available references available. Therefore, Applicants respectfully submit that all claims are allowable over the best available references.

**Final Remarks.** In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over all prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. Applicant requests any and all rejections and/or

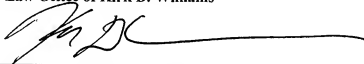
objections be withdrawn. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney, as Applicants are open to discussing, considering, and resolving issues.

Applicants request a one-month extension of time is required. Should a different extension of time be deemed appropriate, Applicants hereby petition for such deemed extension of time. Applicants further authorize the charging of Deposit Account No. 501430 for any fees that may be due in connection with this paper (e.g., claim fees, extension of time fees) as required in addition to the payment made herewith using EFS-Web.

Respectfully submitted,  
**The Law Office of Kirk D. Williams**

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By



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